

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

NO. 7:19-CR-139-FL-5

UNITED STATES OF AMERICA

v.

BRIAN PEARCE,

Defendant.

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ORDER

This matter is before the court on defendant's pro se motion for copies of court documents and transcripts without any costs. (DE 516)

With respect to that part of the motion seeking free transcripts, pursuant to 28 U.S.C. § 753(f), "[f]ees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act (18 U.S.C. 3006A), . . . shall be paid by the United States out of moneys appropriated for those purposes." 28 U.S.C. § 753(f). In addition, a free transcript may be provided to an indigent criminal defendant bringing an action pursuant to 28 U.S.C. § 2255 "if the trial judge . . . certifies that the suit . . . is not frivolous and that the transcript is needed to decide the issue presented by the suit. . . ." *Id.*; see United States v. MacCollum, 426 U.S. 317, 326 (1976). Finally, "[f]ees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question)." 28 U.S.C. § 753(f).

An indigent defendant must make a showing of a particularized need to obtain a free transcript for post-conviction proceedings. See, e.g., United States v. Hill, 34 F. App'x 942, 943

(4th Cir. 2002). An indigent defendant may not obtain a free transcript “merely to comb the record in the hope of discovering some flaw.” United States v. Glass, 317 F.2d 200, 202 (4th Cir. 1963).

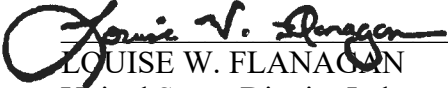
In this case, defendant has not demonstrated he is entitled to a free transcript for purposes of appeal, where his case is closed, and there are no “criminal proceedings” pending. 28 U.S.C. § 753(f). Defendant also has not filed any notice of appeal or an extension of time to do so, and the time to appeal defendant’s April 23, 2021, judgment has long since passed. See Fed. R. App. P. 4(b)(1) and 4(b)(4). Likewise, defendant has not filed a § 2255 action and he has not made a satisfactory showing of a particularized need for transcripts. Therefore, that part of defendant’s motion seeking free transcripts is DENIED.

With respect to free copies, defendant also has not demonstrated good cause to receive copies at the court’s expense. Under 28 U.S.C. § 1914(b), the “clerk shall collect from the parties such . . . fees only as are prescribed by the Judicial Conference of the United States.” The Judicial Conference Schedule of Fees, District Court Miscellaneous Fee Schedule, appended to the statute provides that the following “fees in the District Court Miscellaneous Fee Schedule are to be charged for services provided by the district courts”: “For reproducing any record and providing a copy in paper form, \$.50 per page.” 28 U.S.C. § 1914, District Court Miscellaneous Fee Schedule, n. 4. Defendant may obtain copies of documents in his case file by making a request to the Clerk, U.S. District Court and mailed to the address below:

Attention: Copy Request System
United States Clerk’s Office
P.O. Box 25670
Raleigh, NC 27611

Accordingly, defendant’s motion for copies of court documents and transcripts without any costs (DE 516) is DENIED.

SO ORDERED, this the 1st day of May, 2023.


LOUISE W. FLANAGAN
United States District Judge